

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

PRECISION ASSOCIATES, INC.;
ANYTHING GOES LLC d/b/a MAIL
BOXES ETC., and JCK INDUSTRIES,
INC., on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

PANALPINA WORLD TRANSPORT
(HOLDING) LTD., *et al.*,

Defendants.

Case No.: 08-CV-00042 (BMC) (PK)

**DECLARATION OF
MICHAEL R. O'CONNOR IN SUPPORT
OF PLAINTIFFS' MOTION FOR
SECOND DISTRIBUTION OF
SETTLEMENT FUNDS**

I, MICHAEL R. O'CONNOR, ESQ., hereby declare and state as follows:

1. I am a Vice President at Epiq Class Actions & Claims Solutions, Inc. ("Epiq") and a licensed attorney in Oregon. Prior to joining Epiq in 2010, I was an owner at the Garvey Schubert Barer law firm in Portland, Oregon, and was engaged in private practice for 13 years. I received my Juris Doctorate from the University of Oregon Law School in 1997 and my Bachelor of Arts degree from Yale University in 1994. I have first-hand knowledge of, and am competent to testify, regarding the matters stated herein.

2. I previously submitted the January 28, 2019 Declaration of Michael R. O'Connor Esq. ("2019 O'Connor Dec.") in which I described in detail Epiq's administration of claims made in this case. The 2019 O'Connor Dec. is incorporated herein by reference and was cited by plaintiffs in support of their Motion for Disbursement of Funds.

INITIAL DISTRIBUTION

3. As approved by this Court, and consistent with the Plan of Allocation, Epiq conducted an initial distribution of the Net Settlement Fund to eligible claimants (the "Initial

Distribution”) on May 24, 2019. A total of 12,422 claimants were sent payments via check or wire totaling \$318,002,145.60.

4. After the Initial Distribution, Epiq monitored the status of all checks issued. Epiq engaged in exhaustive follow-up contact with claimants who had not negotiated checks to ensure as many claimants as possible received their payments. In some instances, claimant checks were returned by the United States Postal Service to Epiq as undeliverable (*e.g.*, the claimant changed its address) and in other situations, claimants simply did not negotiate their checks. For claimants whose checks were undeliverable, Epiq used industry best practices to try to locate a new mailing address for each claimant. When a new address was identified, we mailed a new check to those claimants. This process was repeated until either the claimant negotiated their check or we had exhausted our ability to find a new address for those claimants.

5. For claimants whose checks were not returned as undeliverable, but who did not negotiate their checks, Epiq followed-up via phone and email. Epiq politely urged claimants to negotiate their checks and, where appropriate, offered claimants the opportunity to have their award payments reissued if, for example, they lost or damaged their check or otherwise required a new check. On occasion, Class Counsel assisted us in reaching out to claimants to encourage them to negotiate their payments. Since we initially mailed checks in May of 2019, Epiq met regularly with Class Counsel as we worked together to locate and contact as many claimants as possible to get them paid. In my almost ten years at Epiq, I have never observed a more robust, coordinated effort to ensure successful claimants received their awards.

6. Since the Initial Distribution, Epiq has reissued 1,162 payments (via check or wire) in the aggregate amount of \$8,030,514.47. In some situations, we reissued to the same claimant several times.

7. As a result of the extraordinary follow-up efforts made by Epiq and Class Counsel, \$315,259,978.24, or 99.1% of the amount distributed in the Initial Distribution, has been negotiated by or successfully wired to claimants. I am not aware of an administration with such a high percentage of funds received, which is consistent with my observation that our claimant outreach efforts were remarkable.

SUPPLEMENTAL DISTRIBUTION

8. As described above, despite our best efforts, there are still some unclaimed funds that can and should be made available to claimants in a Supplemental Distribution.

9. The Net Settlement Fund consists of \$26,929,099.61 from three different sources:

(a) Unclaimed award payments totaling \$2,637,955.72, as described in paragraphs 3-7, *supra*;

(b) \$18,721,390.61 left over from the reserve set aside during the Initial Distribution regarding the China Chamber of International Commerce's ("CCOIC") disputed claim;¹ and

(c) An additional reserve amount of \$5,569,753.28,² set aside in the event an unexpected contingency arose after the Initial Distribution.

10. Epiq recommends that the entire balance in the Net Settlement Fund be distributed consistent with the methodology described in the 2019 O'Connor Dec., on a *pro rata* basis to all claimants who negotiated their Initial Distribution award payments over \$100.

¹ The CCOIC reserve was \$23,621,390.61. As the Court is aware, CCOIC appealed the Court's affirmation of Epiq's denial of its claim. CCOIC later reached a settlement with plaintiffs and in exchange for dismissing its appeal, CCOIC received \$4,900,000 as payment for its claim.

² The original additional reserve was for \$7,289,051.38. The \$5,569,753.28 figure here deducts Epiq's proposed fee award (\$1,600,000) and counsel's requested additional expenses (\$119,298.10) from this original additional reserve.

11. As described in paragraph 41 of the 2019 O'Connor Dec., for the Initial Distribution, Epiq recommended and the Court approved establishing a one-time *de minimus* payment of \$100 for all claimants whose initial awards were calculated to be greater than zero but less than \$100. Epiq similarly recommends a \$25 *de minimus* payment for the Supplemental Distribution for all claimants whose supplemental awards have been calculated to be more than zero but less than \$25. In our experience, *de minimus* payments are routinely approved in class action distributions to enhance administrative efficiency.

12. Epiq's proposed supplemental award payments are attached as Exhibit 1.

13. To encourage claimants to negotiate their Supplemental Distribution checks promptly, which can avoid or reduce future administrative expenses, Supplemental Disbursement checks will bear the notation "VOID IF NOT NEGOTIATED WITHIN 90 DAYS."

SETTLEMENT ADMINISTRATION FEES

14. Epiq has incurred more than \$2,000,000 in unpaid administrative fees and costs performing work on this matter since the Court last approved a payment of our fees and costs in December of 2016. During that time, Epiq has performed considerable work to benefit the Class. Much of that work related to the analysis of claims for the Initial Disbursement and efforts to get as many claimants paid as possible, as particularly described in the 2019 O'Connor Dec. and throughout this Declaration. Additional fees and expenses include but are not limited to: answering class member phone calls to our toll-free line in six languages, maintaining and updating an interactive voice recording on our toll-free line with answers to class member questions in six languages, responding to correspondence from class members (email and written) in six languages, maintaining and updating an administration website in six languages, data analyst time to perform calculations for both the Initial and Supplemental Disbursements, bank account management

(including reconciliation of the Qualified Settlement Fund ["QSF"] bank account, issuing wire payments to claimants as requested and monitoring check negotiation activity), preparing tax returns for the QSF, printing and postage costs (including letters, claim determinations and checks) and project management time to oversee all aspects of the administration in addition to direct and frequent communications with Class Counsel.

15. Class Counsel requested a discount on our fees and costs, which Epiq honored. Accordingly, Epiq requests a final payment of \$1,600,000 in administrative fees and costs, inclusive of all outstanding amounts and all future work necessary to conduct the Supplemental Disbursement and close out the administration. All fees and costs incurred by Epiq in connection with this matter were reasonable and necessary to perform our duties as the settlement administrator. The considerable discount agreed-to by Epiq has provided the class with a significant and material additional benefit. Class Counsel supports payment of this sum to Epiq as appropriate compensation for the considerable work we have performed since December 2016.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on this 14th day of July in the District of Columbia.



Michael O'Connor

EXHIBIT 1

[illegible]

